

REMARKS

The present Amendment is responsive to the final Office Action dated December 24, 2008. Applicants submit a two-month extension of time herewith extending the period from March 24, 2009 up to and including May 24, 2009. Applicants also submit a Request for Continued Examination herewith, and therefore request that the present communication be entered.

Claims 1-14, and 17-20 were rejected in the Action. Independent claim 1 is amended and no claims are added or cancelled herein. Therefore, claims 1-14, and 17-20 remain pending in the present application. Support for amended claim 1 can be found in Applicants' originally filed disclosure. Thus, no new matter is added herein. Applicants set forth the following remarks in response to the Action.

Applicants thank the Examiner for conducting a telephone interview with Applicants' undersigned attorney on April 1, 2009. The basis of the interview was to discuss the rejections of independent claim 1 (and other of the claims) of the present application in view of the teachings in U.S. Patent No. 4,997,432 to Keller ("Keller") and U.S. Patent No. 4,303,268 to Davidson ("Davidson"). As stated in the interview summary dated April 6, 2009, the interview included discussion of the instruments disclosed in Keller and Davidson, and particularly about the movement of a sleeve with respect to the instrument that the sleeve is mounted on. As discussed in the interview, sleeve 28 of Keller may move in both a proximal and distal direction with respect to a longitudinal axis of the instrument 23. When the sleeve moves in a proximal direction along the longitudinal axis, holding elements or prongs 24, 25 of the instrument contract, and alternatively, when the sleeve moves in a distal direction along the longitudinal axis, prongs 24, 25 expand. Further, sleeve 35 of Davidson is slidably mounted on

first end portions 23 and 24 of locking tongs 20, and is movable longitudinally thereon between first positions illustrated in Figures 2, 5 and 7 and second positions illustrated in Figures 3, 6 and 8 (see the disclosure set forth in col.4, ll.43-47 of Davidson). Locking sleeve 35 of Davidson is only rotatable in order to prevent its removal from the remainder of the structure, not to move the first end portions 23 and 24 together. Rather, the movement of first end portions 23 and 24 together is accomplished by the aforementioned sliding movement of locking sleeve 35 along the longitudinal axis of the apparatus.

Turning to the Action, the Examiner rejected claims 1-10, 13, 14, and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over Keller in view of Davidson, and claims 11 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Keller in view of Davidson in further view of U.S. Patent No. 4,317,387 to Meyers ("Meyers"). Independent claim 1 has been amended above to require that the sleeve remain longitudinally fixed through its rotation and the movement of the holding enclosure to a contracted state. Applicants respectfully assert that a *prima facie* case of obviousness of amended claim 1 cannot be made using the cited references. Neither Keller nor Davidson, alone or in combination, disclose or suggest an apparatus including a sleeve that when rotated remains longitudinally fixed. As explained above, undersigned conveyed this to the Examiner during the April 1 interview. This proposition remains true even given the Examiner's opinions (as set forth in the Action) that the threads of the sleeve and extension of Keller "fix" the sleeve longitudinally at any given point. Simply put, the sleeve in Keller is not longitudinally fixed when the sleeve is rotated about the extension as recited in amended claim 1. Thus, claim 1, as amended is not moot by even the combination of Keller and Davidson.

For the foregoing reasons, Applicants respectfully submit amended claim 1 overcomes the outstanding rejections. Claims 2-14, and 17-20 are likewise unobvious, *inter alia*, because of their dependence from claim 1, or an intervening claim. Therefore, in view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 22, 2009

Respectfully submitted,

Electronic signature:

/William A. Di Bianca/

William A. Di Bianca

Registration No.: 58,653

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicants

999713_1.DOC